

**HON. SYLVIA O. HINDS-
RADIX**
Corporation Counsel

**THE CITY OF NEW YORK
LAW DEPARTMENT**
SPECIAL LITIGATION UNIT
100 CHURCH ST.
NEW YORK, NEW YORK 10007


ALEXANDRA HASTINGS
Senior Counsel
Tel: (212) 356-7179
Fax: (212) 356-1148
Email: ahasting@law.nyc.gov

October 4, 2023

Honorable Naomi Reice Buchwald
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Court House
500 Pearl Street
New York New York 10007

Application to quash or
strike plaintiff's Notice
to Admit is granted.

SO ORDERED.


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Re: Francis Quinn, et. al. v. City of New York, et. al.
Docket No.: 20 CV 2666 (JGK)
NYC File No.: 2020-017559

Dated: October 13, 2023
New York, New York

Hon. Buchwald:

My office represents the defendant/third-party plaintiff, the City of New York (“the City”), in the above-entitled action. I submit this letter motion seeking to quash plaintiffs’ Notice to Admit, dated September 5, 2023, directed at the City. See Notice to Admit, annexed as Exhibit “A”.

As an initial matter, plaintiffs’ counsel did not serve the Notice to Admit addressed to the City on third-party defendant Consolidated Edison Company of New York, Inc. (“Con Edison”), and Con Edison is not named as a recipient in the service list. See Exhibit A.

Further, plaintiffs served this Notice to Admit in direct violation of Your Honor’s Decision, dated August 25, 2023. See Decision, annexed as Exhibit “B”. Specifically, this Court held: “[i]t does not appear that additional discovery is necessary before the City files its proposed motion. Should that not be the case, or if any other issue arises that might meaningfully impact plaintiffs ability to respond to the motion, such issue may be raised after the motion has been filed. Therefore, the Court will permit the City to make its motion, and the parties should confer and propose a briefing schedule agreeable to both sides, in which no more than sixty days elapse from the filing of the City’s motion to the filing of its reply.” See Exhibit B.

As maintained in the City's letter motion and letter reply, dated August 4, 2023 and August 17, 2023, all relevant records have been searched for and exchanged in this matter and the additional discovery that plaintiffs seek is not material or necessary to prosecution of this action. See Docket Entries 69 and 71. Your Honor has already reviewed plaintiffs' arguments in favor of more disclosure and held that they are not entitled to additional discovery before the City files its motion. See Exhibit B.

Following from Your Honor's Decision, the City e-mailed plaintiffs' counsel on August 28, 2023 and September 28, 2023 to set forth a briefing schedule for the motion. See E-mails, annexed as Exhibit "C". Plaintiffs' counsel never responded to the City's e-mails.

Therefore, for all of the foregoing reasons, the City respectfully requests that the Court quash or strike plaintiffs' Notice to Admit, dated September 5, 2023, as to the City and/or deem it a nullity. Alternatively, the City requests permission to make a motion for a Protective Order pursuant to Federal Rules of Civil Procedure, Rule 26(c). Further, the City requests that the Court set a briefing schedule for the City to file its motion for summary judgment.

Respectfully submitted,

/s/ Alexandra Hastings
Alexandra Hastings
Senior Counsel

CC: **Via ECF**
Napoli Shkolnik
Heidell, Pittoni, Murphy & Bach, LLC

EXHIBIT A

FRANCIS PAUL QUINN, JR., and LORI ANN QUINN,

Plaintiffs,

-against-

THE CITY OF NEW YORK and THE NEW YORK
CITY DEPARTMENT OF TRANSPORTATION,

Defendants.

THE CITY OF NEW YORK and THE NEW YORK CITY
DEPARTMENT OF TRANSPORTATION,

Third-Party Plaintiff(s)

-against-

CONSOLIDATED EDISON, INC.,

Third-Party Defendant(s)

Docket No.: 20-cv-2666

NOTICE TO ADMIT

Third-Party Action

PLAINTIFFS, FRANCIS QUINN, JR., and LORI QUINN hereby request that
defendants THE CITY OF NEW YORK and THE NEW YORK CITY DEPARTMENT OF
TRANSPORTATION, Admit:

1. That THE CITY OF NEW YORK and THE NEW YORK CITY
DEPARTMENT OF TRANSPORTATION performed maintenance or repair work on the south
side of 6th Avenue at the intersection with East 53rd Street, State of New York, County of New
York at any time between July 3, 2016, through July 3, 2019. See the attached photograph
depicting the above referenced area and work.

2. That THE CITY OF NEW YORK and THE NEW YORK CITY
DEPARTMENT OF TRANSPORTATION performed maintenance or repair work on the south
side of 6th Avenue at the intersection with East 53rd Street, State of New York. County of New

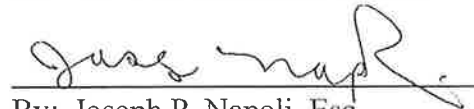
York at any time between July 3, 2019, through July 3, 2020. See the attached photograph depicting the above referenced area and work.

PLAINTIFFS reserve the right to amend and/or supplement the foregoing disclosures as may become necessary during the course of discovery.

Dated: New York, New York
September 5, 2023

Yours, etc.,

NAPOLI SHKOLNIK, PLLC

A handwritten signature in dark ink, appearing to read "Joseph P. Napoli", is written over a horizontal line.

By: Joseph P. Napoli, Esq.
Attorneys for Plaintiffs
360 Lexington Avenue – 11th Floor
New York, New York 10017-6502
(212) 397-1000

To: **JAMES E. JOHNSON**
Corporation Counsel of the
CITY OF NEW YORK
Attorneys for all Defendants
100 Church Street
New York New York 10007
(212) 356-7155



Docket No.: 20-cv-2666

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

FRANCIS PAUL QUINN, JR., and LORI ANN QUINN,

Plaintiffs,

-against-

**THE CITY OF NEW YORK and THE NEW YORK CITY DEPARTMENT OF
TRANSPORTATION.**

Defendants.

PLAINTIFF'S NOTICE TO ADMIT

NAPOLI SHKOLNIK, PLLC.

Attorneys for Plaintiff

360 Lexington Avenue 11th Floor

New York, New York 10017-6502

(212) 397-1000

To

Attorney(s) for Defendants

Service of a copy of the within _____ is hereby admitted.

Dated:

Attorney(s) for Plaintiff

Sir:

☐ Please take notice that the within is a (certified) true copy of a _____
duly entered in the Office of the Clerk of the within named Court on _____, 20__

☐ Please take Please take notice that an Order of _____
which the within is a true copy will be presented for settlement to the Hon. _____
one of the Judges of the within named Court, at _____ on _____, 20__
at ____:____ ☐ a.m./ ☐ p.m.



NAPOLI
SHKOLNIK PLLC
ATTORNEYS AT LAW

360 LEXINGTON AVENUE
11TH FLOOR
NEW YORK, NY 10017
NAPOLILAW.COM



quadiant
FIRST-CLASS MAIL
IMI
\$001.59⁰
09/06/2023 ZIP 10118
043M30238628

US POSTAGE

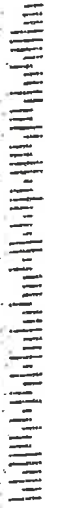


EXHIBIT B

Full docket text for document 74:

ENDORSED LETTER addressed to Counsel from Naomi Reice Buchwald, United States District Judge dated 8/25/2023 re: defendant's letter requesting permission to make a motion for summary judgment.

ENDORSEMENT: The Court has reviewed defendants letter requesting permission to make a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure based upon Administrative Code § 7-201, see ECF No. 69, and the parties subsequent letters in opposition and further support, see ECF Nos. 70-73. It does not appear that additional discovery is necessary before the City files its proposed motion. Should that not be the case, or if any other issue arises that might meaningfully impact plaintiffs ability to respond to the motion, such issue may be raised after the motion has been filed. Therefore, the Court will permit the City to make its motion, and the parties should confer and propose a briefing schedule agreeable to both sides, in which no more than sixty days elapse from the filing of the Citys motion to the filing of its reply. Furthermore, for the avoidance of doubt, any schedule set by Judge Koeltl in 2020 is no longer operative, and the caption of the case should be corrected on all future filings by the parties to reflect that this case is in front of the undersigned. (Signed by Judge Naomi Reice Buchwald on 8/25/2023) (ate) Modified on 8/25/2023 (ate).

PACER Service Center			
Transaction Receipt			
10/04/2023 16:05:39			
PACER Login:	alexandrahastings	Client Code:	
Description:	History/Documents	Search Criteria:	1:20-cv-02666-NRB
Billable Pages:	1	Cost:	0.10

EXHIBIT C

From: [Hastings, Alexandra \(Law\)](#)
To: ["jnapoli@napolilaw.com"](mailto:jnapoli@napolilaw.com)
Cc: ["sdurri@hpmc.com"](mailto:sdurri@hpmc.com)
Subject: RE: 1:20-cv-02666-NRB - Quinn et al v. City of New York
Date: Thursday, September 28, 2023 10:34:27 AM

Hi Mr. Napoli,

Per the Judge's recent decision, which indicated that no additional discovery is necessary before the City files its motion, below please find my proposed briefing schedule. I have extended the dates as I have not heard from you following my first e-mail. I have included a copy of the Order below.

Please let me know if the dates are acceptable, and I will prepare a formal briefing schedule to be filed with the court.

City's motion for summary judgment to be filed by 11/30/23. Opposition to be filed by 1/8/23.
Reply to be filed by 1/29/23.

Thank you.

ENDORSED LETTER addressed to Counsel from Naomi Reice Buchwald, United States District Judge dated 8/25/2023 re: defendant's letter requesting permission to make a motion for summary judgment. ENDORSEMENT: The Court has reviewed defendants letter requesting permission to make a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure based upon Administrative Code § 7-201, see ECF No. 69, and the parties subsequent letters in opposition and further support, see ECF Nos. 7073. It does not appear that additional discovery is necessary before the City files its proposed motion. Should that not be the case, or if any other issue arises that might meaningfully impact plaintiffs ability to respond to the motion, such issue may be raised after the motion has been filed. Therefore, the Court will permit the City to make its motion, and the parties should confer and propose a briefing schedule agreeable to both sides, in which no more than sixty days elapse from the filing of the City's motion to the filing of its reply. Furthermore, for the avoidance of doubt, any schedule set by Judge Koeltl in 2020 is no longer operative, and the caption of the case should be corrected on all future filings by the parties to reflect that this case is in front of the undersigned. (Signed by Judge Naomi Reice Buchwald on 8/25/2023) (ate)

Best,

Alex

Alexandra Hastings
Senior Counsel
New York City Law Department
Tort Division | Special Litigation Unit
E | ahastings@law.nyc.gov

P | 212-356-7179

PRIVILEGED AND CONFIDENTIALITY NOTICE: This e-mail message is intended only for the person(s) to whom it is addressed and may contain information that is privileged confidential, or otherwise protected from disclosure. The information contained herein is not to be forwarded, discussed, or otherwise disclosed to anyone other than the persons(s) addressed in this email without the advance written permission of the sender. Any unauthorized review, use, disclosure or distribution is expressly prohibited. If you are not the intended recipient of this e-mail, please promptly alert the sender by reply e-mail that you received it in error and destroy all copies of the original and any reply message.

From: Hastings, Alexandra (Law)
Sent: Monday, August 28, 2023 10:53 AM
To: 'jnapoli@napolilaw.com' <jnapoli@napolilaw.com>
Cc: 'sdurri@hpmb.com' <sdurri@hpmb.com>
Subject: 1:20-cv-02666-NRB - Quinn et al v. City of New York

Hi Mr. Napolì,

Per the Judge's recent decision, below please find my proposed briefing schedule for the City's motion. Please let me know if acceptable. Thank you.

City's motion for summary judgment to be filed by 10/31/23. Opposition to be filed by 12/8/23.
Reply to be filed by 12/29/23.

Best,

Alex

Alexandra Hastings

Senior Counsel
New York City Law Department
Tort Division | Special Litigation Unit
E | ahasting@law.nyc.gov
P | 212-356-7179

PRIVILEGED AND CONFIDENTIALITY NOTICE: This e-mail message is intended only for the person(s) to whom it is addressed and may contain information that is privileged confidential, or otherwise protected from disclosure. The information contained herein is not to be forwarded, discussed, or otherwise disclosed to anyone other than the persons(s) addressed in this email without the advance written permission of the sender. Any unauthorized review, use, disclosure or distribution is expressly prohibited. If you are not the intended recipient of this e-mail, please promptly alert the sender by reply e-mail that you received it in error and destroy all copies of the original and any reply message.